

### **REMARKS/ARGUMENTS**

Working from the Examiner's renumbered version of the claims attached to the Office Action,<sup>1</sup> the Applicant is canceling claims 37, 57-111, 152 and 153 without disclaimer or prejudice to further prosecution in a continuation, continuation-in-part, divisional, or other related application. The remaining claims are being amended as described in the Section above. Reconsideration of the objections and rejections set forth in the Final Office Action mailed 7 March 2005 is respectfully requested in view of the claim amendments and the following remarks.

#### **Rejections Under 35 U.S.C. § 112**

The Examiner rejected claim 23 for reciting "the method of claim 22", pointing out that claim 22 recites a signal. Office Action mailed 7 March 2005 at 2. The Examiner also rejected claim 89 (now canceled) for reciting "said first key". *Id.* The Applicant respectfully submits that both rejections are obviated by the amendments above, and therefore requests that these rejections be withdrawn.

#### **Rejections Under 35 U.S.C. § 101**

The Examiner rejected claims 13-23 for allegedly claiming non-statutory subject matter. *Id.* at 3. However, the Applicant respectfully notes that the Examiner did not

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<sup>1</sup> The Examiner's version sets forth renumbered claims 1-52 and 54-153, but omitted any claim numbered 53. Applicant is working from the Examiner's renumbered version of the claims, but is also setting forth a numbered claim 53 corresponding to the mis-numbered claim positioned between numbered claims 52 and 54 in the application as originally filed.

explain the grounds for this allegation. These rejections are respectfully traversed in view of the following remarks.

Initially, the Applicant directs the Examiner's attention to Section 2107.01 of the Manual of Patent Examining Procedure ("M.P.E.P.", 8<sup>th</sup> Edition 2<sup>nd</sup> Revision), subsection VII. CLEARLY COMMUNICATE FINDINGS, CONCLUSIONS AND THEIR BASES. That subsection instructs that: "[Office personnel] should review all the proposed rejections and their bases to confirm their correctness. Only then should any rejection be imposed in an Office action. The Office action should clearly communicate the findings, conclusions and reasons which support [the rejections]." The Applicant believes that the quoted subsection requires all rejections to include a statement of facts and reasons that support the rejections; otherwise, the Applicant is denied an opportunity to rebut the rejections.

The Applicant cannot identify any reason in the instant Office Action that supports the Examiner's assertion. The Applicant believes that the rejected claims are directed to patentable subject matter, and therefore respectfully suggests that the Examiner either provide reasons to support his assertion and rejections or withdraw the rejections.

### **Rejections Under 35 U.S.C. § 102**

The Examiner rejected claims 1, 4–11, 13–16, 18, 20, 21, 24–36, 39, 40, 43–45, 47–51, 57–89, 112–121, 124–131, 133–137, and 144–147 under 35 U.S.C. 102(b) as allegedly anticipated by U.S. Patent No. 5,241,599 Bellovin, *et al.* ("Bellovin"). Office

Action mailed 7 March 2005 at 3. The rejection of claims 57–89 and 112 is rendered moot by the cancellation of those claims without prejudice or disclaimer.

Regarding the remaining rejected claims, the Applicant respectfully submits that Bellovin does not show or suggest the unique combination of a method for secure communication between a first communicating party and a second communicating party in which first and second shared random numbers associated with the first and second parties respectively are identified, exchanged between the two parties, and used to obtain a shared secret key. The Applicant therefore respectfully requests that the Examiner withdraw these rejections.

### **Rejections Under 35 U.S.C. § 103**

The Examiner rejected claims 2, 3, 12, 22, 23, 37, 38, 52, 90-111, 122, 123, 152 under 35 U.S.C. § 103(a) as allegedly unpatentable over Bellovin in view of U.S. Patent No. 6,018,581 to Shona, *et al.*, (“Shona”). *Id.* at 15. Claims 17, 41, 42, 46, 138-141 were also rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Bellovin in view of U.S. Patent No. 6,539,479 to Wu (“Wu”). *Id.* at 22. Claims 142 and 143 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Bellovin and Wu in view of U.S. Patent No. 5,434,918 to Kung, *et al.*, (“Kung”). *Id.* at 5. Claims 54–56, 132, 148–151, and 153 were rejected under 35 U.S.C. 103(a) as allegedly unpatentable over Bellovin in view of U.S. Patent No. 5,365,589 Gutowitz (“Gutowitz”). *Id.* at 26. Finally, Claim 19 was rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Bellovin

in view of U.S. Patent No. 6,115,817 to Whitmire (“Whitmire”). *Id.* at 28. These rejections are respectfully traversed in view of the following remarks.

The Applicant respectfully submits that cited prior art, alone or in combination, does not show or suggest the unique combination of a method for secure communication between a first communicating party and a second communicating party in which first and second shared random numbers associated with the first and second parties respectively are identified, exchanged between the two parties, and used to obtain a shared secret key. The Applicant therefore respectfully requests the Examiner to withdraw these rejections.

### **Conclusion**

In view of the foregoing, it is respectfully submitted that the above-identified patent application is in condition for allowance. A Notice of Allowance is therefore respectfully requested. Applicant desires to schedule a personal interview with the Examiner to resolve any remaining questions or issues and will contact the Examiner shortly.

SIMMS

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Respectfully submitted,

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